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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/180,629	11/12/1999	Aaron Fenster	1814.31	7008
5514	7590	12/29/2003	EXAMINER	
FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112			SUKHAPHADHANA, CHRISTOPHER T	
			ART UNIT	PAPER NUMBER
			2625	

DATE MAILED: 12/29/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/180,629

Applicant(s)

FENSTER ET AL.

Examiner

Christopher T. Sukhaphadhana

Art Unit

2625

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 28 October 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on 06 November 2003. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.


Claim(s) rejected: 1-13.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☒ Other: See Continuation Sheet

Continuation of 5. does NOT place the application in condition for allowance because: the finally rejected claims are still deemed unpatentable over the art of record and applicant's arguments are not persuasive at least for the reasons set forth in the final rejection, paragraph 8a (arguing features not recited).

Continuation of 10. Other: In further response to Applicant's arguments, the Examiner wishes Applicant to consider the following point: What is considered "necessary to view the selected three-dimensional image surface" is subjective to the environment and technology in which the image surface is being presented. In response to the first argument Applicant presents on this point (paragraph bridging pages 7-8 of Amdt filed 28 Oct 2003), Quistgaard further teaches in col 8, line 35, a viewer having the capability of stopping the sequence at a particular combined image to have the impression of viewing the scanned region from the perspective at which the sequencing was stopped. In this capacity, the transformation of this entire sequence would be considered necessary to provide the viewer with the choice of proper perspective. In response to the second argument Applicant presents (first full paragraph, page 8, aforementioned Amdt), if Quistgaard's invention discloses that it uses all image data to present a three-dimensional view (Examiner has not had the opportunity to verify this statement), then one can assert that Quistgaard's underlying three-dimensional reconstruction algorithm requires the transformation of all image data to present the three-dimensional view. Thus, it would be necessary to use all the image data for the algorithm to produce the three-dimensional view. Since an algorithm requires inputs of a certain format in order to function properly, then so long as those inputs meet the proper format (i.e. Quistgaard's algorithm receives all image data), the necessary requirements for the proper functioning of that algorithm have been fulfilled.



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